

UNITED STATES PATENT AND TRADEMARK OFFICE

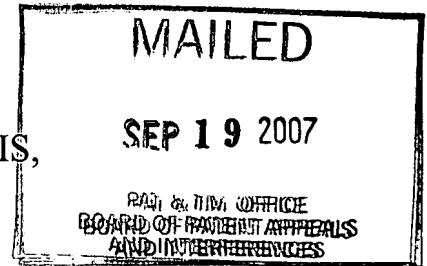
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DAVID LLEWELLYN MALLIS,  
AND HARRIS ALLEN REYNOLDS

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Application No. 09/977,746

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on September 14, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

**EXAMINER'S ANSWER**

**Evidence Relied Upon**

The Examiner's Answer mailed August 1, 2006, is defective. The appendix heading "Evidence Relied Upon" (section 8, pg.2) the Examiner indicates "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal."

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In accordance with MPEP § 1207.02, the “Evidence Relied Upon” (section 8) should include:

**(8) Evidence Relied Upon**

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Correction of the record is required, the Examiner may issue a PTOL-90 to identify the evidence relied upon in the rejection of the appealed claim.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner’s Answer: and  
2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

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